IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

FRIDAY, THE 8TH JUNE 2007 / 18TH JYAISHTA 1929

WP(C).No. 17674 of 2007(S)

MC.509/2006 of FAMILY COURT, MALAPPURAM
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PETITIONER:

MATHOL ABDUL AZEEZ,
S/O.KUNHI MOHAMMED, APLA, KARATHALUNGAL,
P.O.THENNALA, MALAPPURAM DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS:
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1. PANGINIKKADAN SAFIYA,
D/O.AVARANKUTTY, KANNAMPARAMBIL HOUSE,
P.O.THENNALA, VALAKULAM (VIA), MALAPPURAM DISTRICT

2. SAMJAS 13 YEARS, S/O.SAFIYA (MINOR),
REPRESENTED BY IST RESPONDENT MOTHER -DO- -DO-.

3. SAFNA, 9 YEARS, D/O.SAFIA (MINOR),
REPRESENTED BY 1ST RESPONDENT MOTHER,
-DO-, -DO-.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 08/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & T.R.RAMACHANDRAN NAIR, JJ.

W.P.(C) No.17674 of 2007

Dated 8th June, 2007.

J U D G M E N T

Kurian Joseph, J.

Petitioner is the respondent in M.C.509/2006 on the file of the Family Court, Malappuram. The respondents are the petitioners in the said case. In the nature of the view we propose to take in this case, it is not necessary to issue notice to the respondents, since the order in our view would otherwise safeguard their interests, and will not cause any prejudice to them. Ext.P1 order was passed by the Family Court granting maintenance to the respondents at the rate of Rs.2,000/-, Rs.1,500/- and Rs.1,000/- respectively from the date of the petition. The petitioner was set ex parte. It is submitted that on coming to know of the ex parte order, he had filed Exts.P2 and P3 petitions before the Family Court for condonation of delay as well as for setting aside the ex parte order. It is further submitted that during the pendency of those petitions, coercive steps are taken for implementing Ext.P1. Therefore, it is submitted that there may be a direction to the Family Court to dispose of Exts.P2 and P3 applications, before proceeding with the coercive steps for implementation of Ext.P1.

2. After having heard the counsel for the petitioner, we are of the view that since the application for setting aside the ex parte

order is pending before the Family Court, it is only in the interests of justice that the said application is duly considered and disposed of before initiating coercive steps for the implementation of the order, which is sought to be set aside, by putting the petitioner on terms. Therefore, the writ petition is disposed of as follows :-

The petitioner will deposit an amount of Rs.10,000/- towards interim maintenance within two weeks from today. On such deposit, the Family Court shall take up for consideration, Exts.P2 and P3 applications and dispose of the same in accordance with law. We make it clear that the amount thus deposited shall be permitted to be withdrawn by the respondents towards maintenance and the same shall be duly adjusted towards the amount due to them. Needless to say that the coercive steps initiated against the petitioner shall be deferred till such time.

KURIAN JOSEPH, JUDGE.

T.R.RAMACHANDRAN NAIR, JUDGE.

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KURIAN JOSEPH &

T.R.RAMACHANDRAN NAIR, JJ

L.A.A. NO. OF 2004

J U D G M E N T

Dated 8th June, 2007.